

LEASE TERMINATION AGREEMENT

THIS LEASE TERMINATION AGREEMENT (this "**Agreement**") is made as of May 24, 2019, by and between IQ9-200 SW C AVE LLC, a Delaware limited liability company, with an address of c/o C-III Asset Management, 5221 N. O'Connor Blvd., Suite 800, Irving, Texas 75039 Attention: REO Department ("**Landlord**"), and Sears, Roebuck & Co., a New York corporation, as debtor and debtor-in-possession, with an address of 3333 Beverly Road, Hoffman Estates. IL 60179 ("**Tenant**").

WHEREAS, Landlord's predecessor and Tenant entered into a certain lease dated August 17, 1978 (as the same may have been amended from time to time, and together with any and all other agreements affecting the subject premises, the "**Lease**"), covering certain warehouse premises commonly known as 416 SE F Avenue, Lawton, OK 73501 (the "**Premises**");

WHEREAS, Tenant and certain of its affiliates each commenced voluntary cases under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**"). These cases are jointly administered under *In re Sears Holdings Corporation, et al.*, Case No. 18-23538 (RDD); and

WHEREAS, subject to the condition set forth herein, the parties desire to terminate the Lease effective as of the date the Bankruptcy Court approves this Agreement (the "**Termination Date**").

NOW, THEREFORE, in consideration of the premises and the mutual agreements contained herein, Landlord and Tenant hereby agree as follows:

1. Termination and Surrender.

(a) As of the Termination Date, Tenant will surrender the Premises to Landlord and at such time give, grant and unequivocally surrender unto Landlord all of Tenant's right, title and interest in and to the Premises, including, without limitation, all of Tenant's right, title and interest in, to and under the Lease, and Landlord hereby agrees to accept such surrender. Tenant shall not be obligated to do any work or alter, restore, repair or develop the Premises, and has no obligation to remove its exterior signs, inventory, trade fixtures, equipment and other personal property, if any (the "**Personal Property**"). Any Personal Property left in the Premises after the Termination Date shall be deemed abandoned by Tenant and Tenant shall have no liability with respect thereto and Landlord may dispose of and/or demolish any such Personal Property, without compensation to Tenant; in this regard, Tenant hereby waives any statutory or common law rights that would prevent Landlord from demolishing or removing any such Personal Property from the Premises after the Termination

Date. The Lease is hereby agreed to be terminated and of no further force and effect as of the Termination Date just as if the Termination Date were the expiration date of the term of the Lease. In addition, any and all rights and obligations of the parties that may have arisen in connection with the Premises shall be deemed to have expired and terminated as of the Termination Date and shall not survive the Termination Date.

(b) As of the Termination Date, Landlord irrevocably releases and forever discharges Tenant from any obligations and liabilities (financial or otherwise) under the Lease, and all claims (whether known or unknown, asserted or unasserted, fixed or contingent, liquidated or unliquidated) of any kind or nature whatsoever, whether direct or derivative, that Landlord may have against Tenant arising under or relating to the Lease, including, but not limited to, (i) any claim for damages resulting from termination of the Lease under sections 365 and 502(b)(6) of the Bankruptcy Code, and (ii) any claim for rent, including any rent for the period subsequent to October 15, 2018. Without limiting the foregoing, Landlord acknowledges that no monies shall be due from the Tenant for rent, costs, taxes, damages, amounts or any other item regarding, arising out of or related to the Premises. For the avoidance of doubt, nothing contained in this provision affects the Landlord's rights concerning the Sears store (the "Sears Lawton Store") in Lawton, Oklahoma and the separate lease relating to the Sears Lawton Store.

(c) To the extent Landlord has filed or files any proof of claims with respect to the Lease or the Premises, Landlord waives and releases any such claims and consents to the expungement of such claims, with prejudice. Nothing contained in this Agreement affects the Landlord's rights concerning (i) the Sears Lawton Store; (ii) the separate lease relating to the Sears Lawton Store; and (iii) the proof of claim filed by the Landlord concerning the Sears Lawton Store and the separate lease relating to the Sears Lawton Store.

2. Further Assurances. At any time and from time to time after the date hereof, without further consideration, (a) at the request of Landlord, Tenant shall execute and deliver such other instruments of sale, transfer, conveyance and termination or consents and take such other action as Landlord may reasonably request as necessary or desirable in order to more effectively transfer, convey and surrender to Landlord all of Tenant's rights to the Premises and under the Lease, and (b) at the request of Tenant, Landlord shall execute and deliver such other instruments of assumption and confirmation and take such other action as Tenant may reasonably request as necessary or desirable in order to more effectively evidence Landlord's acceptance of Tenant's surrender of the Lease; *provided that*, in no event shall Tenant be obligated to take any action that results in costs borne or to be borne by Tenant.

3. "AS IS, WHERE IS" TRANSACTION. LANDLORD HEREBY ACKNOWLEDGES AND AGREES THAT TENANT MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATTER RELATING TO THE PREMISES OR THE LEASE. ACCORDINGLY, LANDLORD ACCEPTS THE PREMISES "AS IS" AND "WHERE IS."

4. Condition to Termination of Lease. The parties' obligation to consummate the transaction contemplated by this Agreement is subject to entry by the Bankruptcy Court of an order, in form and substance acceptable to Tenant, in its sole discretion, that authorizes Tenant to terminate the Lease.

5. Miscellaneous.

(a) Subject to paragraph 4 above, this Agreement is binding upon and shall inure to the benefit of Tenant's successors and assigns, including, without limitation, a trustee, if any, subsequently appointed under chapter 7 or chapter 11 of the Bankruptcy Code, and is binding upon and shall inure to the benefit of Landlord's successors and assigns.

(b) This Agreement will be governed by and construed in accordance with the laws of the State of New York, without regard to conflicts of law principles thereof. EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY CONSENTS TO SUBMIT TO THE JURISDICTION OF THE BANKRUPTCY COURT FOR ANY AND ALL DISPUTES ARISING OUT OF OR OTHERWISE RELATING TO THIS AGREEMENT. SHOULD THE BANKRUPTCY COURT ABSTAIN FROM EXERCISING ITS JURISDICTION OR BE FOUND NOT TO HAVE JURISDICTION OVER A MATTER RELATING TO THIS AGREEMENT, SUCH MATTER SHALL BE ADJUDICATED IN EITHER A FEDERAL DISTRICT COURT IN THE STATE OF NEW YORK OR THE SUPREME COURT OF THE STATE OF NEW YORK LOCATED IN NEW YORK COUNTY, NEW YORK. Without limiting other means of service of process permissible under applicable law, Landlord and Tenant agree that service of any process, summons, notice or document by U.S. registered mail to the addresses set forth on the first page of this Agreement shall be effective service of process for any suit or proceeding in connection with this Agreement or the transactions contemplated hereby.

(c) This Agreement and any additional agreements delivered in connection herewith together contain the entire agreement between the parties hereto, and except as otherwise specifically set forth herein, supersede all prior agreements and undertakings between the parties hereto relating to the subject matter hereof.

(d) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument, and presentation of any copy of this Agreement, whether original or facsimile (including in portable document format (pdf)), signed by Tenant and Landlord shall constitute sufficient proof of this Agreement.


(e) Any and all sales, transfer and recording taxes, stamp taxes or similar taxes or fees, if any, relating to the termination of the Lease shall be the sole responsibility of Landlord and shall be paid, if applicable, to the proper governing body on the Termination Date.

(f) This Agreement may not be amended orally but rather may be amended only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first written above.


TENANT:

Sears, Roebuck & Co.,
a New York corporation,
as Debtor and Debtor-in-Possession

By: 
Name: Jame Borden
Title: President, Real Estate

LANDLORD:

IQ9-200 SW C AVE, LLC,
a Delaware limited liability company ,

By: C-III Asset Management LLC, its
Manager
By: 
Name: Michele Ray
Title: Servicing Officer